IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.347 OF 2006

Smt Mrudula Padmakar Mankar ...Appellant

Versus

Shri Sahebrao Gangadhar Kadam & Ors. ...Respondents

Shri Priten P. Killedar for the Appellant.
Ms Pritam Tendulkar for the Respondent Nos.1 and 2.

CORAM : ABHAY S.OKA, J.
DATED : MARCH 30, 2007.

P.C.:

1. Heard Advocates appearing for the parties. The Appellant filed a suit for declaration that Agreement for Sale dated 27th January, 1995 executed in favour of the Respondents as well as the declaration of Deed of Apartment executed in favour of the Respondents has been cancelled and is not binding on the Appellant. An Application at Exhibit 5 was made in the said suit for temporary injunction restraining the Respondents from making any further construction and from creating any third party interests in respect of the property in dispute. By Judgment and Order dated 18th June, 2005, the said Application has been rejected by the trial Court.

2. After having heard the learned Advocates appearing for the parties, I find that no case for

interference is made out. From 18th June, 2005 till today, there is no interim or ad-interim relief operating in favour of the Appellant. There is a prima facie finding recorded by the trial Court that the first Respondent has constructed a commercial complex on the suit property and has executed various agreements in favour of third parties. There is a prima facie finding that the Appellant has received the entire consideration. The correctness of the said findings is disputed by the learned Advocate for the Appellant.

3. Considering the fact that construction has already come up and there is no interim or ad-interim relief operating in favour of the Appellant from 18th June, 2005, at this stage, no case is made out for interference. It is obvious that further construction which may be carried out and further third party interests created by the Respondents will be subject to final outcome of the pending suit.

4. Subject to what is stated above, Appeal is dismissed. No orders as to costs. All contentions of the parties in the pending suit are expressly kept open. Hearing of the suit is expedited.

JUDGE